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PATENT

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5/13/92  
Date

Michael L. Riordan  
Signature

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

See 1. below

Serial No.:

Group Art Unit:

Filing Date:

Examiner:

Title:

DECLARATION OF MICHAEL L. RIORDAN  
UNDER 37 CFR 1.28(c)(2)

The Honorable Commissioner of  
Patents and Trademarks  
Washington, D.C. 20231

Dear Sir:

I, Michael L. Riordan, President, Gilead Science,  
declare as follows.

1. At the time I executed the small-entity statement in the below-identified patent applications, I was aware of a July, 1990 agreement with a large company to license the technology now contained in the below-identified patent applications.

<u>Serial No.</u>	<u>Filing Date</u>
07/559,958	July 30, 1990
07/559,957	July 30, 1990
07/585,780	September 20, 1990

07/594,147	October 10, 1990
07/595,870	October 11, 1990
07/617,907	November 23, 1990
07/625,680	December 10, 1990
07/640,654	January 14, 1991
07/643,382	January 18, 1991
07/652,978	February 2, 1991
07/683,420	April 8, 1991
07/690,786	April 24, 1991.

2. I did not know that an agreement with a large company would effect the entity status of patent applications being filed by Gilead Sciences subsequent to the execution of the agreement. I do not recall discussing this matter regarding small entity status normally applied to Gilead Science with any patent attorney of record or informing such attorney that an agreement had been signed with a large company which covered existing technology now contained in the above-identified patent applications. I did not routinely have contact with any patent attorney of record about such matters but relied upon the contact between such attorneys and Dr. Daryl Muenchau, the person in Gilead having primary liaison with such attorneys. I signed the small-entity statement because I was aware that Gilead Sciences had correctly filed such statements in other U.S. applications, and I was of the belief that there were no reasons which removed Gilead from entitlement to small-entity status.

3. I was aware that the patent rules permit certain entities to establish status as small entities for the purposes of paying fees in patent applications at a reduces scale. Gilead Sciences had in the past determined that it qualifies for small entity status. I did not supply Ms. Murashige, the attorney of record in the present

application, with detailed information regarding the third party agreement because of a lack of understanding on my part and others at Gilead, including Daryl Muenchau, as to the precise legal meaning and intent of the provisions for small-entity statements as they might relate, if at all, to third party license agreements. I knew Ms. Murashige to be an experienced patent attorney who had filed many other patent applications for Gilead and on whom we relied. I was also aware that Ms. Murashige was at least aware of some of Gilead's third party relationships and I incorrectly assumed that when I was requested to execute the small-entity statement for the present application, any uncertainties as to its appropriateness had been resolved.

4. I have recently been advised by Ms. Murashige and Daryl Muenchau that such an agreement provides sufficient basis to preclude small-entity status in the above-identified applications.

5. No attempt was made improperly or through gross negligence to (i) establish status as a small entity, or (ii) pay fees as a small entity. The error occurred in good faith but through inadvertence and without deceptive intent as described herein.

6. I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of

the United States Code, and that such willful false statements may jeopardize the validity of the applications or any patent issuing thereon.

Date 4/21/92

Michael L. Riordan  
Michael L. Riordan